

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent and Patent Application of:
Vincenzo SCARLATO et al.

Patent No.: 6,914,131

Art Unit: 1631

Issued: July 5, 2005

Examiner: Shubo ZHOU

Patent Ser. No.: 10/864,684 (continuation of above)

Art Unit: 1645

Filed : June 8, 2004

Examiner: P. Baskar

For: NEISSERIAL ANTIGENS

**VERIFIED STATEMENT IN SUPPORT OF PETITION FOR RETROACTIVE FOREIGN
FILING LICENSE PURSUANT TO 37 C.F.R. §5.25**

I, Amy HESSLER, declare as follows:

1. I am submitting this statement in support of the Petition for Retroactive Foreign Filing License for:

- GB App. No. 9723516.2, filed Nov. 6, 1997;
- GB App. No. 9724190.5, filed Nov. 14, 1997;
- GB App. No. 9724386.9, filed Nov. 18, 1997;
- GB App. No. 9725158.1, filed Nov. 27, 1997;
- GB App. No. 9726147.3, filed Dec. 10, 1997;
- GB App. No. 9800759.4, filed Jan. 14, 1998;
- GB App. No. 9819016.8, filed Sept. 1, 1998; and
- PCT App. No. PCT/IB98/001665, filed Oct. 9, 1998 (collectively, the “**GB Priority and PCT Applications**”).

In addition, to the extent that the foreign filing license granted for the subject matter of U.S. Ser. No. 09/303,518 granted June 9, 1999 is ineffective for the following later filed foreign patent applications and patents, this statement additionally in support of the Petition for Retroactive Foreign Filing License for:

- BR App. No. PI9813930-4, filed May 4, 2000;
- CA App. No. 2308606, filed May 4, 2000;
- CN Pat. No. CN1263854, filed June 30, 2000;
- EP App. No. 98946675.0 (issued as EP1029052), filed April 28, 2000 (together with national patents issuing therefrom);
- HK App. No. 00105869.7, filed Sept. 19, 2000;
- JP App. No. 2000-520572, filed May 2, 2000;
- MX App. No. PA/a/00/004363, filed May 4, 2000;
- RU App. No. 2000114245 (issued as RU Pat. No. RU223291), filed June 5, 2000; and
- SG App. No. SG72388, filed April 18, 2000 (collectively, the “**National Phase Foreign Patent Applications**”).
- BR Div. No. PI9816251-9, filed July 31, 2007;
- CN Div. No. 200510113395.7, filed Oct. 17, 2005;
- EP Div. No. 07075379.3 (published as EP1900818), filed May 21, 2007;
- CA Div. No. 2,671,261, filed May 14, 2009;
- HK App. No. 01103903.9 (issued as HK Pat. No. 1033337), filed June 6, 2001;
- JP Div. No. 2005-290551, filed Oct. 3, 2005;
- MX Div. No. MX/a/2009/000817, filed Jan. 21, 2009; and
- RU Div. No. 2004100847, filed Jan. 8, 2004 (collectively, the “**Foreign Divisional Patent Applications**”)

2. Beginning June 2006, I was assigned responsibility for managing the prosecution of the patent family that includes the above patent and patent application. Prior to that, I had no involvement with the preparation and filing of the GB Priority and PCT Applications, so I was

unaware that a foreign filing license had not been obtained from the USPTO. During the ordinary course of prosecution, I instructed various foreign associates to file foreign divisional patent applications. It was not Chiron Corporation's policy, and is not Novartis Vaccines and Diagnostic, Inc.'s policy, to review the patent family to determine whether a foreign filing license in the US was required and, if so, whether a foreign filing license was obtained when filing a foreign divisional application.

3. Since I had no involvement with the preparation and filing of the GB Priority and PCT Applications, I was unaware that a foreign filing license had not been obtained from the USPTO. Further, I had no knowledge of, or reason to believe that, any of the work upon which the above patent and patent application were based was performed in the United States when I instructed the foreign associates to file the following foreign divisional patent applications: BR Div. No. PI9816251-9, filed July 31, 2007, EP Div. No. 07075379.3 (published as EP1900818), filed May 21, 2007, CA Div. No. [awaiting confirmation], filed May 14, 2009, and MX Div. No. MX/a/2009/000817, filed Jan. 21, 2009. Thus, if the foreign filing license previously granted for U.S. Ser. No. 09/303,518 is ineffective for any of the foreign divisional patent applications, I was not aware that a foreign filing license might be required for the United States for the filing of any of the foreign divisional patent applications or that an effective foreign filing license had not been obtained from the USPTO and so the filing of the foregoing foreign patent applications without obtaining a foreign filing license from the USPTO was through error and without intent to deceive.

Patent No.: 6,914,131
Patent Ser. No.: 10/864,684

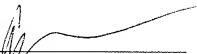
4

Docket No.: 223002099600
223002099601

4. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the patent and patent application or any patent issued thereon.

November 4, 2009

Date


Name: Amy ~~HESSLER~~